

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BMW OF NORTH AMERICA, LLC, et al.,)
)
Plaintiffs,)
)
vs.) Case No. 4:11CV1389 RWS
)
PATRICK STANGLER,)
)
Defendant.)

MEMORANDUM AND ORDER

This case was recently reassigned to me and is before me on my review of the file.

Defendant Patrick Stangler has written a letter to the Court [#11] seeking additional time to respond to the complaint and “a change of venue to the Pensacola, Florida” area. It also appears that he may be trying to contest personal jurisdiction as he claims he does not, and has not, lived in Missouri for “over 13 years.” The Clerk of the Court entered default against defendant on September 19, 2011, one day before his letter was docketed, and only eight days after his answer was due. Default judgment has not yet been entered. Rule 55(c) of the Federal Rules of Civil Procedure permits me to set aside an entry of default for good cause. I believe that defendant has met this burden, and so I will construe his letter as a motion to set aside the entry of default and grant the motion. I will also grant defendant an extension of time to answer or otherwise respond to the complaint.

Defendant has indicated an intention to represent himself in this matter. He may do so, but he is required to comply with all local and Federal Rules of Civil Procedure. The local rules prohibit defendant from writing letters to the Court, so any future communications must be made by filing an appropriate pleading or motion which is served on opposing counsel as required.

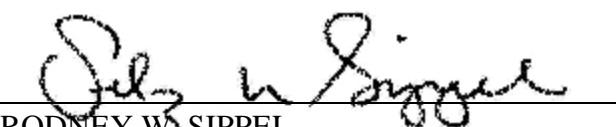
Because defendant has not properly presented his arguments regarding jurisdiction and venue to the Court, they will be denied without prejudice to being refiled as an appropriate motion or responsive pleading. Plaintiffs will then have thirty (30) days to respond to any such motion, and defendant will have ten (10) days thereafter to file a reply brief. Depending on the arguments raised, the Court may be required to hold a hearing which defendant would be required to attend. Any such hearing would be held in Missouri.

If defendant fails to file a timely responsive pleading to the complaint, entry of default and default judgment may be entered against him.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion for extension of time to file responsive pleading [#11-1], which the Court also construes as a motion to set aside entry of default, is granted, and **the entry of default entered against defendant on September 19, 2011 is set aside, and defendant is granted leave, up to and including October 11, 2011, to answer or otherwise respond to plaintiffs' complaint. If defendant fails to timely comply with this Order, entry of default and default judgment may be entered against him.**

IT IS FURTHER ORDERED that defendant's motion for change of venue [#11-2] is denied without prejudice to being refiled as an appropriate motion or responsive pleading. The briefing schedule for any such motion or issue is set out above.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 23 day of September, 2011.